IN THE HIGH COURT OF JUDICATURE AT PATNA
MA No.85 of 2006
SHIV SNHANKAR BHARTI
Versus
SMT.BABITA DEVI

For the appellant : Mr. Vishwajeet Kumar Mishra, Advocate

For the Respondent : Mr. R.C. Thakur & Kamal Kishore Singh, Advocates.

P R E S E N T

Hon'ble the Chief Justice
&
Hon'ble Mr. Justice Dr. Ravi Ranjan

Dated, the 8th August, 2008.

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Appeal is admitted. Mr. R.C. Thakur, Advocate waives service for the respondent.

2. Looking to the controversy involved in the appeal, we dispose of the appeal at this stage itself.

3. From the proceedings, it transpires that on 22nd December, 2005, the matter was adjourned for 11th January, 2006. On 11th January, 2006, the court was closed and, accordingly, the matter stood over to next date i.e. 12th January. On 12th January, 2006, the present appellant remained absent and for want of his appearance, the matrimonial case came to be dismissed.

4. Looking to the aforesaid facts, it cannot be said that the appellant intentionally and deliberately avoided the appearance on 12th January, 2006. The respondent can be compensated by award of cost for the inconvenience caused to her. We, accordingly, dispose of

this appeal by the following order –

(i) The order dated 14th February, 2006 is quashed and set aside subject to the payment of cost of Rs.5000/- by the appellant to the respondent. Upon payment of cost, the Matrimonial Case No. 27 of 2003 shall stand restored to the file of Principal Judge, Family Court, Bhagalpur.

(ii) The cost of Rs.5000/- shall be paid by the appellant to the respondent within two weeks from today failing which the order of restoration shall stand recalled and the order dated 14th February, 2006 shall revive automatically.

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R. M. Lodha, CJ

Dr. Ravi Ranjan,J.

Anil/

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